

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Cr. No. 15-20040-07

v.

Hon. Judith E. Levy

KRISTIE McWHERTER,

Defendant.

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**SENTENCING MEMORANDUM**

**I**

On September 7, 2016, Mrs. McWherter pled guilty to Count Three of the Indictment charging her with Conspiracy to Launder Monetary Instruments in violation of 18 U.S.C. §§ 1956(a)(1)(A)(I), (B)(i)-(ii), (h); 1957. Sentencing is scheduled for March 15, 2017. The Court should impose a sentence that is sufficient but not greater than necessary. In the present case, a sentence of probation is sufficient but not greater than necessary.

**II**

Mrs. McWherter will be 40 years old at the time of sentencing. This is her first contact with the criminal justice system. She has no prior convictions and has

led a crime free life for 40 years. She is married to Jimmy McWherter - also a co-defendant and they have twin girls who are eight years old and the apple(s) of their mother's eyes. Mrs. McWherter loves her daughters beyond description. A sentence of incarceration would devastate her and have untold effects upon her daughters - who are already going to lose their father for a significant amount of time. Nothing will be gained or accomplished by incarcerating Ms. McWherter.

The punishment that Mrs. McWherter will receive goes beyond what the Court will impose. The present felony conviction will impact Ms. McWherter for the rest of her life. The collateral consequences of a felony conviction will be extensive affecting her ability to obtain employment, hold public office, possess firearms, an myriad other rights. *See, United States v. Nesbeth*, 2016 WL 3022073 (E.D.N.Y. 5/24/16).

**The nature and circumstances of the offense:**

Mrs. McWherter pled guilty to Conspiracy to Launder Monetary Instruments. She is the least culpable of all seven defendants. The parties agree that Mrs. McWherter did not know the source of the money. That is, she was not aware that her husband was involved in a significant marijuana/money smuggling conspiracy. She did on occasion ask him what the money was from and he told her it was from his business. She did not question his answers.

Mrs. McWherter only did what her husband told her to do. She deposited money that he gave her and where he told her to make the deposit. She wrote checks that her husband told her to write. Mrs. McWherter suspected that her husband was having an affair (and he was) and she wanted to save her marriage so she did what her husband asked her to do. She regrets that and is sincerely remorseful.

**The history and characteristics of the defendant:**

Mrs. McWherter is a 40 year old woman with absolutely no previous contact with the criminal justice system. She has lived a law abiding life. She has worked for most of her adult life. She is married and the mother of twin girls whom she loves dearly. After her husband is sentenced and sent to jail she will be the sole parent and provider for her twin daughters.

**To reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense:**

There is no need to imprison Mrs. McWherter. Her whole history shows that she has respect for the law. A sentence of probation in her case will reflect the seriousness of her participation in the present offense as well as provide just punishment for her role in this offense.

**To afford adequate deterrence to criminal conduct:**

Mrs. McWherter does not need to be deterred from engaging in criminal conduct by a sentence of imprisonment. She has demonstrated a life-long respect for the law.

**To protect the public from further crimes of the defendant:**

There is no need to protect the public from further crimes by Mrs. McWherter. She has been a law-abiding citizen all of her life and has no intention of ever committing another crime.

**To provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner:**

The most effective manner of providing the enumerated goals is not in the custody of the Bureau of Prisons.

**III**

A 1997 report by the Sentencing Commission states that the “relatively high base offense levels under the money laundering guidelines” are “inflexible and arbitrarily determined” without connection “to the seriousness of the defendant’s actual offense conduct,” *see*, Sentencing Policy for Money Laundering Offenses, United States Sentencing Commission (Sept. 18, 1997) at pp. 4 & 9. That is particularly true in this case where Mrs. McWherter was basically following her

husband's direction and was unaware that the money was from the marijuana conspiracy that he was involved in. The advisory sentencing guidelines for Mrs. McWherter over-represent the seriousness of her conduct.

#### IV

In conclusion, Mrs. McWherter respectfully requests this Honorable Court to impose a sentence that is sufficient but not greater than necessary. In this case, we respectfully submit that a sentence of Probation is sufficient but not greater than necessary.

Respectfully submitted,

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Dated: March 6, 2017

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**CERTIFICATE OF SERVICE**

I hereby certify that on March 6, 2017, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

Carl Gilmer-Hill  
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P 33323